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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,508	10/27/2003	Todd L. Hargroder	P-7519(CIP)	2670
30553	7590	04/06/2006	EXAMINER	
GUNN, LEE & HANOR 700 N. ST. MARY'S STREET SUITE 1500 SAN ANTONIO, TX 78205			YEAGLEY, DANIEL S	
			ART UNIT	PAPER NUMBER
			3611	

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/694,508	HARGRODER, TODD L.	
	Examiner	Art Unit	
	Daniel Yeagley	3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 11-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 21-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because:
 - a. figure 7, reference character “112” has been used to designate both a cable wire housing and an upper lip of the recessed ledge.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because:
 - b. they do not include the following reference sign(s) mentioned in the description:
 - i. numeral “19”; cited in page 10.
 - ii. numeral “72”; cited in page 11.
 - iii. numeral “216”; cited in page 24.
 - c. they include the following reference character(s) not mentioned in the description:
 - iv. numeral “26”; figure 3.
3. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The disclosure is objected to because of the following informalities:

Page 22, line 15, the phrase, "and upper lip" should be changed to --an upper lip--.

Appropriate correction is required.
5. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.
6. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." However, the references cited in the specification have been considered.

Claim Objections

7. Claim 2 and 24 are objected to because of the following informalities:

Regarding claim 2 and 24, the term "*the* axis" lacks proper antecedent basis.

Appropriate corrections are required.
8. Regarding newly submitted claims 21 – 30, if claims are added after the election, applicant must indicate which are readable upon the elected invention. MPEP § 809.02(a). However, the newly submitted claims were examined on their merits as being directed to the elected invention.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

10. Claims 1 – 10 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for --a braking cable 112 connected between the caliper brakes 18 and the manual braking actuator 142-- or --a braking cable 112 connected from the caliper brakes 18 to the manual braking actuator 142--, does not reasonably provide enablement for “a braking cable connected from the caliper brakes of the manual braking actuator. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims. The claim language “connected from the caliper brakes *of the* manual braking actuator” makes it sound like the brakes 18 are part of the manual braking actuator 142.

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. Claims 1 – 10 and 21 – 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. The words “type” used throughout the claims are considered indefinite.
- b. Regarding claim 9, 10, 29 and 30, the terms “*said lever arm*” lack antecedent basis.
- c. Regarding claim 10, the terms “*said adjustable locking means*” and

“said mounting bracket” lack antecedent basis.

- d. Regarding claim 28, the term *“said frame”* lacks antecedent basis.
- e. Regarding claim 29, the term *“said locking force”* lacks antecedent basis.

Applicant is requested to thoroughly edit all the claims for any other errors.

Claim Rejections - 35 USC § 102

13. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

14. Claims 1 – 3, 5, 6, 9, 21 – 27 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Roberts et al ‘756.

Roberts discloses a manual braking system (figure 1) comprising disks 14 mounted to wheels via axle 24, wherein brakes are mounted to a wheelchair (at numeral 23), and a manual brake actuator (pivotal lever 2) is mounted to a wheelchair (at numeral 22), and includes a brake cable 7 connected from the brakes to the braking actuator over a pulley (element shown between numeral 4 and 6 in figure 1), wherein the pulley would provide substantially equal force on each of the brakes (column 1-3), such that an axis of the pulley is displaceable; as seen by the relocation of the linking element 4 in figure 2), wherein the pulley and the lever are fixedly mounted to the frame via a bracket 1, and such that movement (adjustable locking means) of the brake actuator provides the incremental and variable braking force to the brakes as broadly claimed via latch and the plurality of notches.

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. Claims 7, 10, 28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts et al '756 in view of Iwanaga et al '609.

Roberts discloses a manual braking system having lever actuated braking actuator that is pivotally mounted to a mounting bracket to a wheelchair that includes a linking element, wherein a pulley means provides a substantial equal force on each of the brakes (column 2, line 17-18), and included an adjustable locking means via the brake actuator and the incremental latch (plunger) and plurality of notches, wherein the notches are radially spaced around a pivot point and the plunger is insertable into the notches to lock the lever arm in a rotated position, but failed to disclose the plurality of notches being radially spaced around a pivot point of a lever arm of the brake actuator with a plunger mountable to the mounting bracket and failed to show the lever having a mounting element being slid within a guiding slot on the lever.

Iwanaga shows an adjustable locking means for use with a manual braking system that includes a lever being pivotally mounted to a fixed mounting bracket that shows the prior art of utilizing a lever 12 that incorporates the feature of an elongated mounting element 19 being extendable through a guiding slot 18 in a mounting bracket 10, such that a pulley 17 and a linking element 20 is rotatable thereon as broadly claimed, and wherein the braking system of Iwanaga further discloses an adjustable locking means for the lever that provides incremental

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braking force that utilizes a plurality of notches placed around a pivot point of a lever arm with a plunger that is mountable to a mounting bracket, such that the plunger 37 is insertable into notches to lock the lever in a rotated position.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the braking system of Roberts with a modified adjustable braking actuator lever that incorporates a plunger system, as suggested by Iwanaga to alternatively lock the lever in a rotated position as suggested by Iwanaga (figure 1-10, column 1-2) and simply provided the plurality of notches around the pivot point of the lever arm, simply as an alternative site for the plurality of notches rather than around the brake assembly to equally lock the lever in a rotated position, since it is held that rearranging parts of an invention involves only routing skill in the art. In re Japikse, 86 USPQ 70.

Response to Arguments

17. Although applicant's arguments with respect to claims 1 - 10 have been considered and are moot in view of the new ground(s) of rejection as now claimed. Also, the indicated allowability of claims 7 – 10 are withdrawn in view of the newly discovered reference(s) to Iwanaga et al and as now claimed by applicant s' amendment. The rejections based on the newly cited reference(s) are stated above. In regards to applicants' arguments; the examiner does not concede the previous examiners' rejection with respect to claims 1 – 6; as previously claimed; but cites new references found based on applicants' amended claims because they better disclose the prior art as now claimed and understood. Applicant should however note that; in response to the argument that the references failed to show certain features of applicant's invention, it is

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noted that the features upon which applicant relies (i.e., caliper type brakes which assert force specifically to discs) are not recited in the rejected independent claim(s) and the word “type” is considered indefinite because it could possible mean some other type of braking, holding or stopping device. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In response to applicant's argument that Hartman is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the recitation of a wheelchair had not been given patentable weight because the recitation occurred in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951). Further, Hartman and Juan both disclosed a manual braking systems as broadly claimed earlier and additionally Hartman and Adams are broadly readable as being wheeled chairs.

Conclusion

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Berry '938 and '355, Pfisterer '039, Kewecki '588, Ruopp '955 and Kawabata '389 show various manual braking systems for a wheelchair.

Gatti '197, Lipshied '858, Bopp et al '718 and Hirst, Jr. '074 show various braking lever actuator arrangements.


20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Yeagley whose telephone number is (571)-272-6655. The examiner can normally be reached on Mon. - Fri; first Friday off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D. Morris can be reached on (571) - 272 - 6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D.Y.


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